

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 02-0130P

Withholding Tax

February, March, June, September, November 1998, February, March, May, June, July, August, September, October, November, December 1999, January, February, May, June, July, August, October 2000

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. Tax Administration – Interest

Authority: IC 6-8.1-10-1; 45 IAC 15-11-1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer was assessed late filing penalties. In a telephone conference hearing on March 7, 2002, taxpayer requests the department waive the penalties and interest assessed against it and references a letter addressed to the department dated February 11, 2002.

Taxpayer states its delinquent payment of withholding taxes arose from a bookkeeper that did not fulfill the responsibilities of her job. Not until February 15, 2001 was the taxpayer aware that the WH-1 returns had not been filed and tax had not been paid. Upon discovery, they immediately took steps to determine which periods needed returns and payments. Taxpayer states that the IDR provided the necessary information and forms for the taxpayer to file as required and the filings and payments were mailed July 2, 2001. The first penalty notices were not received until October and continued to arrive through December and represent an additional delay of three to five months.

Taxpayer further states it sent abatement request letters as notices arrived that were dated October 17, October 22, November 2, and December 11, 2001. A letter dated January 16, 2002 denied the abatement of penalties.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer states that it filed the missing returns immediately upon its knowledge that they were not remitted. Taxpayer further states it has cleared up the problem. Taxpayer states that it was unaware that the returns were not filed by its bookkeeper.

Taxpayer's failure to remit the tax was not the result of reasonable cause. Taxpayer should have been aware of the actions of its employee and should have verified the books yearly.

FINDING

Taxpayer's protest is denied.

II. Tax Administration – Interest

DISCUSSION

Taxpayer requests that the department waive the interest assessed because the Department delayed in sending balance due notices after the taxpayer filed returns.

The Indiana statute does not allow a waiver of interest and the taxpayer had use of Department tax monies.

FINDING

Taxpayer's protest is denied.